

\*E-FILED 3/16/07\*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

GIUSEPPE “NINO” CAMPANELLA, et al.,

NO. 04-04906 RS

Plaintiffs,

Consolidated With Case No. 05-1945 RS

v.

**ORDER GRANTING MOTION TO  
COMPEL**

JEFFREY LONGORIA, et al.,

Defendants.

I. INTRODUCTION

Defendants’ motion to compel the resumption of the deposition of plaintiff Domenica Campanella was heard on March 14, 2007. For the reasons set forth below, the motion will be granted.

II. BACKGROUND

This action arises from an incident in which the defendant sheriff’s deputies allegedly entered plaintiffs’ home and violated their civil rights in the course of responding to a 911 call for medical assistance. The consolidated case involves a second incident, some months later, when deputies entered the home to arrest plaintiff Giuseppe Campanella on domestic violence charges.

At Giuseppe’s<sup>1</sup> criminal trial, Domenica testified that her father had not engaged in abuse, and he was acquitted. In the spring of 2006, further allegations of abuse were reported to the

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<sup>1</sup> The Court uses plaintiffs’ given names to avoid confusion.

1 sheriff's office, and two uniformed deputies were dispatched to Domenica's school to interview her.  
2 Defendants assert that during the interview, Domenica confirmed the substance of the abuse charges.  
3 The interview was recorded.

4 When Domenica appeared for deposition in this action, her counsel, who was representing all  
5 plaintiffs, apparently was unaware that the interview had taken place, much less that a recording  
6 existed. Counsel instructed Domenica to answer no questions regarding the interview. Giuseppe  
7 was present at the deposition and started to comment, but counsel also told him to say nothing.  
8 After a discussion off the record, plaintiff's counsel announced that he had an irreconcilable conflict  
9 of interest, and that he would be withdrawing. The deposition therefore terminated.

10 The Court subsequently granted the motion by plaintiffs' counsel to withdraw. Domenica  
11 (and her siblings) are now represented by new, separate counsel. Neither Domenica's new counsel  
12 nor Giuseppe's new counsel object in principle to the resumption of Domenica's deposition, but they  
13 contend that the recording or transcript of the interview should be produced *prior* to the deposition.

### 14 15 III. DISCUSSION

16 Defendants are unwilling to produce the recording or a transcript of the interview voluntarily  
17 because they believe that Giuseppe may attempt to direct or influence Domenica's responses to the  
18 questions defendants likely will ask at the resumed deposition. Without making any determination  
19 regarding defendants' concerns, they can be ameliorated and the respective interests of the parties'  
20 balanced by production of the recording or transcript to counsel for Domenica on an "attorney eyes  
21 only" basis.

22 Accordingly, defendants shall produce a copy of the recording or transcript to counsel for  
23 Domenica forthwith, who may discuss its contents with Domenica, but who shall not otherwise  
24 divulge the contents to any person until after Domenica's deposition. The parties shall cooperate to  
25 schedule the resumption of the deposition as promptly as practicable.

IV CONCLUSION

The motion to compel is granted, to the extent and on the terms set forth above.

IT IS SO ORDERED.

Dated: March 15, 2007

  
RICHARD SEEBORG  
United States Magistrate Judge

1 **THIS IS TO CERTIFY THAT NOTICE OF THIS ORDER HAS BEEN GIVEN TO:**

2 Adam Richard Bernstein bernsteinlaw@earthlink.net, jagarini@earthlink.net

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5  
6 Counsel are responsible for distributing copies of this document to co-counsel who have not  
7 registered for e-filing under the Court's CM/ECF program.

8 **Dated: 3/16/07**

**Chambers of Judge Richard Seeborg**

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10 **By: \_\_\_\_\_/s/ BAK**

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**United States District Court**  
For the Northern District of California